

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA

Mildred Linnette Roane,

Plaintiff,

v.

Shaun Dovovan, in his capacity as Secretary )  
of the United States Department of )  
Housing and Urban Development; Bank )  
Of America, NA; and Wells Fargo Bank, )  
NA, )

Defendants. )

No. 2:14-cv-1211-RMG

**ORDER**

This matter comes before the Court on the Report and Recommendation (“R&R”) of the Magistrate Judge recommending that Plaintiff’s action be dismissed without prejudice pursuant to Rule 4(m) of the Federal Rules of Civil Procedure for failure to serve Defendants within 120 of the filing the Complaint. (Dkt. No. 39). Plaintiff was advised that she had a right to file written objections to the R & R within 14 days of service of the R & R and a failure to file written objections could result in limited review by the District Court and a waiver of the right to appeal the judgment of the District Court. (Dkt. No. 39 at 4). Plaintiff filed no written objections and did not file proof of timely service.

**Background**

Petitioner filed this action on April 2, 2014 and summons were issued on June 20, 2014. Plaintiff was advised that she was responsible for service of process under Rule 4 of the Federal Rules of Civil Procedure and that a failure to serve Defendants within 120 days of the issuance of the summons could result in the dismissal of the action. No timely service was provided and the Magistrate Judge issued a second order on December 5, 2014 directing Plaintiff to file proof

of service on Defendants no later than January 20, 2015. She was further advised that a failure to do so could result in the dismissal of her action. (Dkt. No. 34). Plaintiff failed to respond in any way to the Magistrate Judge's orders. The Magistrate Judge then issued the R & R on January 22, 2015 recommending that this action be dismissed without prejudice if the Plaintiff failed to file proof of service on the Defendants. (Dkt. No. 39). Plaintiff filed no objections or any other response to this order.

### **Legal Standard**

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight, and the responsibility for making a final determination remains with this Court. *Mathews v. Weber*, 423 U.S. 261, 270-71 (1976). This Court is charged with making a de novo determination of those portions of the R&R to which specific objection is made. Additionally, the Court may "accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1). This Court may also "receive further evidence or recommit the matter to the magistrate judge with instructions." *Id.*

### **Discussion**

After review of the record and the R&R, the Court finds the Magistrate Judge applied sound legal principles to the facts of this case and therefore agrees with and adopts the R&R as the order of the Court. (Dkt. No. 39). Therefore, this action is dismissed without prejudice pursuant to Rule 4(m) of the Federal Rules of Civil Procedure.

**AND IT IS SO ORDERED.**



Richard Mark Gergel  
United States District Court Judge

March 3, 2015  
Charleston, South Carolina